

ESTTA Tracking number: **ESTTA658514**

Filing date: **02/27/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Interbank
Granted to Date of previous extension	03/01/2015
Address	1620 West Third Street Elk City, OK 73648 UNITED STATES

Correspondence information	Anthony L. Rahhal Attorney of Record McAfee & Taft 211 N. Robinson 10th Floor, Two Leadership Square Oklahoma City, OK 73102 UNITED STATES anthony.rahhal@mcafeetaft.com, jessica.johnbowman@mcafeetaft.com, di-ane.goswick@mcafeetaft.com Phone:(405) 552-2306
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Applicant Information

Application No	85808999	Publication date	09/02/2014
Opposition Filing Date	02/27/2015	Opposition Period Ends	03/01/2015
International Registration No.	NONE	International Registration Date	NONE
Applicant	Bankinter, S.A. Po de la Castellana, 29 28046 Madrid, SPAIN		

Goods/Services Affected by Opposition

Class 036. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: (Based on Spanish Reg. 944789) Financial services, namely, banking services, mortgage loan services, financial planning services, investment banking services, insurance services, namely, underwriting life, health, accident, fire, home and mortgage insurance, and bill payment services
Class 038. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: (Based on Spanish Reg. 2917137) Telecommunication and communication services, namely, television and radio broadcastingservices, electronic transmission of data and documents via computer terminals, telephone communication services, paging services, text and numeric wireless digital messaging services, wireless digital messaging services, wireless facsimile mail services, wireless PBX services, wireless voice mail services

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1932937	Application Date	09/29/1994
Registration Date	11/07/1995	Foreign Priority Date	NONE
Word Mark	INTERBANK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1994/06/15 First Use In Commerce: 1994/06/15 banking and financing services		

Attachments	74579850#TMSN.png(bytes) NOTICEOFOPPOSITION-BANKINTER-1.pdf(5518737 bytes) NOTICEOFOPPOSITION-BANKINTER-2.pdf(4828857 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Anthony L. Rahhal/
Name	Anthony L. Rahhal
Date	02/27/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 85/808,999
Filing Date: December 21, 2011
Mark: BANKINTER
Published in the Official Gazette on September 2, 2014

Interbank Corporation, Oklahoma,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
Bankinter, S.A.)	
)	
Applicant.)	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Interbank Corporation, Oklahoma ("Interbank") hereby opposes registration of the mark identified in United States Application Serial No. 85/808,999 (the "Opposed Application"), which was filed by Bankinter, S.A. ("Applicant") in International Class 36 and 38 on September 2, 2014.

The Opposed Application was published on September 2, 2014. Interbank filed a request with the Trademark Trial and Appeal Board of the United States Patent and Trademark Office (the "Board") for a 30-day extension of time to oppose on September 19, 2014. That request was granted on September 19, 2014. Subsequently, Interbank's 60-day extension to oppose for good cause was filed and granted by board order on October 29, 2014. A second 60-day extension to oppose upon consent was similarly filed and granted on December 18, 2014. According to the

December 18, 2014 order, Interbank was given until March 1, 2015 to file this Notice of Opposition.

Interbank's grounds for opposition are as follows:

1. Interbank is an Oklahoma Corporation having a principal place of business at 1620 West Third Street, Elk City, Oklahoma 73648.
2. As listed in the Opposed Application, Applicant is a Spanish corporation with its principal place of business at Po de la Castellana, 29 28046, Madrid, Spain.
3. Applicant seeks to register the mark "BANKINTER" (the "Opposed Mark") on the Principal Register in International Class 36 for "financial services, namely, banking services, mortgage loan services, financial planning services, investment banking services, insurance services, namely, underwriting life, health, accident, fire, home and mortgage insurance, and bill payment services," and in International Class 38 for "telecommunication and communication services, namely, television and radio broadcasting services, electronic transmission of data and documents via computer terminals, telephone communication services, paging services, text and numeric wireless digital messaging services, wireless digital messaging services, wireless facsimile mail services, wireless PBX services, wireless voice mail services" (the "Opposed Services").
4. The Opposed Application is presently based on 15 U.S.C. §1126(e), and does not claim a date of first use in the United States. The foreign registrations referred to in the Opposed Application, Spanish Reg. 944,789 and Spanish Reg. 2,917,137, were allegedly registered on January 17, 1981 and August 1, 1969, respectively.
5. Interbank is an Oklahoma corporation that provides banking and financial services, as well as services incidental and related thereto, including but not limited to mortgage

services, loan services, bill payment services, and account management services (the “Interbank Services”).

6. Interbank has used the word mark INTERBANK in connection with the Interbank services since at least June 15, 1994.

7. On May 23, 2014, Interbank filed United States Application Serial No. 86/290,768 (the “Interbank Application”), attached hereto as Exhibit A. The Interbank Application seeks registration of the mark INTERBANK (the “Interbank Word Mark”) in connection with banking and financing services in International Class 36, and is based on Interbank’s longstanding use of the Interbank Word Mark, which was first used in commerce on or before June 15, 1994.

8. Interbank is also the owner of U.S. Trademark Registration No. 1,932,937, attached hereto as Exhibit B, for the stylized mark INTERBANK in connection with banking and financing services in International Class 36 (the “Interbank Design Mark”). The Interbank Design Mark is set forth below:

InterBank

7. Based on its extensive and longstanding use, the Interbank Word Mark and the Interbank Design Mark (collectively, the “Interbank Marks”) have become widely recognized by the general consuming public as a designation of source of the goods and services of Interbank since well before Applicant’s application to use the Opposed Mark in the United States.

8. On September 10, 2014, the United States Patent and Trademark Office issued an office action regarding the Interbank Application (“Office Action”). In the Office Action, the examining attorney referenced the Opposed Application, noting that:

If the mark in the [Opposed Application] registers, [the Interbank Word Mark] may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks. *See* 15 U.S.C. § 1052(d); 37 C.F.R. § 2.83; TMEP §§ 1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced application.

See Office Action, attached hereto as Exhibit C.

9. Based upon the examiner's statement in the Office Action, Interbank believes it will be damaged by registration of the Opposed Mark. Specifically, the examining attorney has indicated that a likelihood of confusion may exist between the Opposed Mark and the Interbank Word Mark, and that the Interbank Word Mark may be refused registration if the Opposed Mark registers. Because the examining attorney has affirmatively indicated that the Opposed Mark, if registered, may present a barrier to the registration of the Interbank Word Mark, Interbank is likely to be damaged by the registration of the Opposed Mark.

10. If, as the examining attorney contends, the Interbank Word Mark so resembles the Opposed Mark as to be likely, when applied to the goods and/or services of Interbank, to cause confusion, then the registration sought by Applicant should be refused because Interbank has priority of use.

11. Similarly, if, as the examining attorney contends, the Interbank Word Mark so resembles the Opposed Mark as to be likely, when applied to the goods and/or services of Interbank, to cause confusion, then a similar risk of confusion is likely to exist between the Opposed Mark and the previously registered Interbank Design Mark, which would independently justify the refusal of the registration sought by Applicant.

12. There is no issue as to priority in this case. Interbank's rights to the Interbank Marks date back to at least 1994. In addition, Interbank has a prior registration for the Interbank Design Mark, which first registered on November 7, 1995. According to the Opposed

Application, Applicant has not yet used the Opposed Mark in the United States, and did not file its Opposed Application within six months of the date on which Applicant's foreign applications were first filed in a foreign country. Accordingly, Interbank has priority of use.

13. If Applicant is allowed to register the Opposed Mark, it will obtain statutory rights to the Opposed Mark that may harm Interbank's rights in the Interbank Marks, and may interfere with Interbank's ability to register those marks for which Interbank has priority of use.

WHEREFORE, Interbank prays that the Opposed Application be refused and that this Opposition be sustained and any other and further relief as is deemed just and proper.

Respectfully submitted,



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and

Jessica John Bowman
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Phone: 918-574-3046
Fax: 4918-574-3146
E-Mail: jessica.johnbowman@mcafeetaft.com

Attorneys for Opposer

CERTIFICATE OF MAILING

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on Applicant by mailing said copy this 27th day of February, 2015, via first class, certified mail, return receipt requested, to:

CHARLES P. LAPOLLA
OSTROLENK FABER LLP
1180 AVENUE OF THE AMERICAS FL 7
NEW YORK, NY 10036-8443

the attorney of record in the opposed application.

I further hereby certify that true and complete copy of the foregoing NOTICE OF OPPOSITION was transmitted electronically to the Commissioner for Trademarks at <http://estta.uspto.gov/filing-type.jsp>



Jessica L. John Bowman

Trademark/Service Mark Application, Principal Register

Serial Number: 86290768

Filing Date: 05/23/2014

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86290768
MARK INFORMATION	
*MARK	<u>INTERBANK</u>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	INTERBANK
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Interbank
*STREET	1620 West Third Street
*CITY	Elk City
*STATE (Required for U.S. applicants)	Oklahoma
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	73648
LEGAL ENTITY INFORMATION	
TYPE	corporation

EXHIBIT A

STATE/COUNTRY OF INCORPORATION	Oklahoma
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	036
* IDENTIFICATION	Banking and financing services
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 06/15/1994
FIRST USE IN COMMERCE DATE	At least as early as 06/15/1994
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-66210203194-153033875 . interbank.pdf
CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT16\IMAGEOUT16\862\907\86290768\xml1\APP0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\907\86290768\xml1\APP0004.JPG
SPECIMEN DESCRIPTION	Web page
ADDITIONAL STATEMENTS SECTION	
PRIOR REGISTRATION(S)	The applicant claims ownership of U.S. Registration Number(s) 1932937.
ATTORNEY INFORMATION	
NAME	Anthony L. Rahhal
FIRM NAME	McAfee & Taft
INTERNAL ADDRESS	Tenth Floor, Two Leadership Square
STREET	211 North Robinson
CITY	Oklahoma City
STATE	Oklahoma
COUNTRY	United States
ZIP/POSTAL CODE	73102
PHONE	(405) 235-9621

FAX	(405) 235-0439
EMAIL ADDRESS	anthony.rahhal@mcafeetaft.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Clifford C. Dougherty, III; Michael J. LaBrie; William D. Hall; Rachel Blue; Sasha L. Beling; Ryan N. Cross; Jessica John Bowman; Zachary A.P. Oubre; Benjamin L. Munda
CORRESPONDENCE INFORMATION	
NAME	Anthony L. Rahhal
FIRM NAME	McAfee & Taft
INTERNAL ADDRESS	Tenth Floor, Two Leadership Square
STREET	211 North Robinson
CITY	Oklahoma City
STATE	Oklahoma
COUNTRY	United States
ZIP/POSTAL CODE	73102
PHONE	(405) 235-9621
FAX	(405) 235-0439
EMAIL ADDRESS	anthony.rahhal@mcafeetaft.com;glenda.holden@mcafeetaft.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE PAID	325
SIGNATURE INFORMATION	
SIGNATURE	/Anthony L. Rahhal/
SIGNATORY'S NAME	Anthony L. Rahhal
SIGNATORY'S	Attorney of Record, Oklahoma Bar Member

POSITION	
DATE SIGNED	05/23/2014

Trademark/Service Mark Application, Principal Register

Serial Number: 86290768

Filing Date: 05/23/2014

To the Commissioner for Trademarks:

MARK: INTERBANK (Standard Characters, see [mark](#))

The literal element of the mark consists of INTERBANK.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Interbank, a corporation of Oklahoma, having an address of
1620 West Third Street
Elk City, Oklahoma 73648
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 036: Banking and financing services

In International Class 036, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 06/15/1994, and first used in commerce at least as early as 06/15/1994, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) Web page.

Original PDF file:

[SPE0-66210203194-153033875 . interbank.pdf](#)

Converted PDF file(s) (2 pages)

[Specimen File1](#)

[Specimen File2](#)

The applicant claims ownership of U.S. Registration Number(s) 1932937.

The applicant's current Attorney Information:

Anthony L. Rahhal and Clifford C. Dougherty, III; Michael J. LaBrie; William D. Hall; Rachel Blue; Sasha L. Beling; Ryan N. Cross; Jessica John Bowman; Zachary A.P. Oubre; Benjamin L. Munda of McAfee & Taft

Tenth Floor, Two Leadership Square
211 North Robinson

Oklahoma City, Oklahoma 73102
United States

The applicant's current Correspondence Information:

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A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Anthony L. Rahhal/ Date: 05/23/2014
Signatory's Name: Anthony L. Rahhal
Signatory's Position: Attorney of Record, Oklahoma Bar Member
RAM Sale Number: 86290768
RAM Accounting Date: 05/27/2014

Serial Number: 86290768
Internet Transmission Date: Fri May 23 15:47:10 EDT 2014
TEAS Stamp: USPTO/BAS-66.210.203.194-201405231547100
05460-86290768-50080f9de5743ceb078d09e77

d41d3889a99bbec357502bcc7c58a998463498-D
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InterBank Acquires Park Cities Bank

c. InterBank Of Oklahoma.



MEMBER FDIC

Int. Cl.: 36

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 1,932,937

Registered Nov. 7, 1995

SERVICE MARK
PRINCIPAL REGISTER

InterBank

FIRST NATIONAL BANK OF SAYRE, THE
(UNITED STATES NATIONAL BANKING
CORPORATION)

P. O. BOX 370
SAYRE, OK 73662

FIRST USE 6-15-1994; IN COMMERCE
6-15-1994.

SER. NO. 74-579,850, FILED 9-29-1994.

FOR: BANKING AND FINANCING SERV-
ICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

EVERETT FRUEHLING, EXAMINING ATTOR-
NEY

To: Interbank (anthony.rahhal@mcafeetaft.com)
Subject: U.S. TRADEMARK APPLICATION NO. 86290768 - INTERBANK - N/A
Sent: 9/10/2014 10:02:17 AM
Sent As: ECOM101@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)
[Attachment - 4](#)
[Attachment - 5](#)
[Attachment - 6](#)

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 86290768 MARK: INTERBANK	*86290768*
CORRESPONDENT ADDRESS: ANTHONY L. RAHHAL MCAFEE & TAFT 211 N ROBINSON AVE FL 10 OKLAHOMA CITY, OK 73102-7176	CLICK HERE TO RESPOND TO THIS I http://www.uspto.gov/trademarks/teas/response VIEW YOUR APPLICATION FILE
APPLICANT: Interbank	
CORRESPONDENT'S REFERENCE/DOCKET NO : N/A CORRESPONDENT E-MAIL ADDRESS: anthony.rahhal@mcafeetaft.com	

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 9/10/2014

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

Search Results

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 3976269. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

Applicant has applied to register the mark “**INTERBANK**” in standard characters for “Banking and financing services,” in Class 36.

Registrant has registered the mark “**INTERBANK**” for “Banking and financing services” in Class 36 [Registration No. 3976269].

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely that a potential consumer would be confused or mistaken or deceived as to the source of the goods and/or services of the applicant and registrant. *See* 15 U.S.C. §1052(d). The court in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) listed the principal factors to be considered when determining whether there is a likelihood of confusion under Section 2(d). *See* TMEP §1207.01. However, not all of the factors are necessarily relevant or of equal weight, and any one factor may be dominant in a given case, depending upon the evidence of record. *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity of the goods and/or services, and similarity of trade channels of the goods and/or services. *See In re Opus One, Inc.*, 60 USPQ2d 1812 (TTAB 2001); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593 (TTAB 1999); *In re Azteca Rest. Enters., Inc.*, 50 USPQ2d 1209 (TTAB 1999); TMEP §§1207.01 *et seq.*

Similarities of the Marks

In a likelihood of confusion determination, the marks are compared for similarities in their appearance, sound, meaning or connotation and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b). Similarity in any one of these elements may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); *see* TMEP §1207.01(b).

In a likelihood of confusion determination, the marks in their entireties are compared for similarities in appearance, sound, connotation, and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b)-(b)(v).

In the present case, applicant's mark is INTERBANK and registrant's mark is INTERBANK. Thus, the marks are identical in terms of appearance and sound. In addition, the connotation and commercial

impression of the marks do not differ when considered in connection with applicant's and registrant's respective goods and/or services.

Therefore, the marks are confusingly similar.

If the marks of the respective parties are identical, the relationship between the goods and/or services of the respective parties need not be as close to support a finding of likelihood of confusion as might apply where differences exist between the marks. *In re Opus One Inc.*, 60 USPQ2d 1812, 1815 (TTAB 2001); *Amcor, Inc. v. Amcor Indus., Inc.*, 210 USPQ 70, 78 (TTAB 1981); TMEP §1207.01(a).

As such, and in view of the identical nature of the marks in issue, it is the view of the examining attorney that consumer confusion as to source would be likely.

Relatedness of the Services

Applicant has applied to register the mark "**INTERBANK**" in standard characters for "Banking and financing services," in Class 36.

Registrant has registered the mark "**INTERBANK**" for "Banking and financing services" in Class 36 [Registration No. 3976269].

It is submitted that applicant's and registrant's services are identical banking and financing services that will likely travel the same trade channels and be encountered by the same classes of purchasers.

The goods and/or services of the parties need not be identical or directly competitive to find a likelihood of confusion. *See Safety-Kleen Corp. v. Dresser Indus., Inc.*, 518 F.2d 1399, 1404, 186 USPQ 476, 480 (C.C.P.A. 1975); TMEP §1207.01(a)(i). Rather, they need only be related in some manner, or the conditions surrounding their marketing are such that they would be encountered by the same purchasers under circumstances that would give rise to the mistaken belief that the goods and/or services come from a common source. *In re Total Quality Group, Inc.*, 51 USPQ2d 1474, 1476 (TTAB 1999); TMEP §1207.01(a)(i); *see, e.g., On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086-87, 56 USPQ2d 1471, 1475-76 (Fed. Cir. 2000); *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290 (Fed. Cir. 1984).

In support of the refusal to register, and , specifically, the relatedness of the services, see the parties' respective identifications of services.

Moreover, any goods or services in the registrant's normal fields of expansion should be considered when determining whether the registrant's goods and/or services are related to the applicant's goods and/or services. TMEP §1207.01(a)(v); *see In re 1st USA Realty Prof'ls , Inc.*, 84 USPQ2d 1581 1584 (TTAB 2007). Evidence that third parties offer the goods and/or services of both the registrant and applicant suggest that it is likely that the registrant would expand their business to include applicant's goods and/or services. In that event, customers are likely to believe the goods and/or services at issue come from or, are in some way connected with, the same source. *In re 1st USA Realty Prof'ls , Inc.*, 84 USPQ2d at 1584 n.4; *see* TMEP §1207.01(a)(v).

The overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a

newcomer. *See In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); *see Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1025 (Fed. Cir. 1988).

Conclusion

It is the conclusion of the examining attorney that consumer confusion as to source would likely result from the contemporaneous registrations of applicant's and registrant's marks as used on or in connection with the parties' respective services and registration is accordingly refused.

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

Prior-Pending Application

The filing date of pending U.S. Application Serial No. 85808999 precedes applicant's filing date. See attached referenced application. If the mark in the referenced application registers, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced application.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

Response

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See* TMEP §§705.02, 709.06.

/EFalk/
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U.S. Patent & Trademark Office
TM Examining Attorney
Law Office 101
(571) 272-1110

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

Print: Sep 10, 2014

77316686

DESIGN MARK

Serial Number

77316686

Status

CANCELLATION PENDING

Word Mark

INTERBANK

Standard Character Mark

Yes

Registration Number

3976269

Date Registered

2011/06/14

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Inter Savings Bank, fsb Federal Savings Bank UNITED STATES 13601 80th Circle North, Suite 100 Maple Grove MINNESOTA 55369

Goods/Services

Class Status -- ACTIVE. IC 036. US 100 101 102. G & S: Banking and financing services. First Use: 1993/01/01. First Use In Commerce: 1993/01/01.

Order Restricting Scope Statement

Registration limited to the area comprising the states of Minnesota, Wisconsin, North Dakota, South Dakota, Iowa, Illinois, Montana, Wyoming, Idaho, Washington and Oregon pursuant to Concurrent Use Proceeding No. 94002374. Concurrent registration with Registration No. 1932937.

Filing Date

2007/10/30

Examining Attorney

WYNNE, MORGAN

Print: Sep 10, 2014

77316686

Attorney of Record
Stephen R. Baird

INTERBANK

Print: Sep 10, 2014

85808999

Issue: 0000/00/00

DESIGN MARK

Serial Number

85808999

Status

PUBLISHED FOR OPPOSITION

Word Mark

BANKINTER

Standard Character Mark

Yes

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Bankinter, S.Á. sociedad anonima (sa) SPAIN Po de la Castellana, 29
28046 Madrid SPAIN

Goods/Services

Class Status -- ACTIVE. IC 036. US 100 101 102. G & S: (Based on Spanish Reg. 944789) Financial services, namely, banking services, mortgage loan services, financial planning services, investment banking services, insurance services, namely, underwriting life, health, accident, fire, home and mortgage insurance, and bill payment services.

Goods/Services

Class Status -- ACTIVE. IC 038. US 100 101 104. G & S: (Based on Spanish Reg. 2917137) Telecommunication and communication services, namely, television and radio broadcasting services, electronic transmission of data and documents via computer terminals, telephone communication services, paging services, text and numeric wireless digital messaging services, wireless digital messaging services, wireless facsimile mail services, wireless PBX services, wireless voice mail services.

Foreign Country Name

SPAIN

Foreign Registration Number

2917137

Print: Sep 10, 2014

85808999

Issue: 0000/00/00

Foreign Registration Date
1969/08/01

Foreign Expiration Date
2019/06/17

Foreign Country Name
SPAIN

Foreign Registration Number
944789

Foreign Registration Date
1981/01/17

Foreign Expiration Date
2020/06/09

Filing Date
2012/12/21

Examining Attorney
PERRY, KIMBERLY

Attorney of Record
Charles P. LaPolla

BANKINTER

To: Interbank (anthony.rahhal@mcafeetaft.com)
Subject: U.S. TRADEMARK APPLICATION NO. 86290768 - INTERBANK - N/A
Sent: 9/10/2014 10:02:18 AM
Sent As: ECOM101@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **9/10/2014** FOR U.S. APPLICATION SERIAL NO. 86290768

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) TIMELY RESPONSE IS REQUIRED: Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **9/10/2014** (*or sooner if specified in the Office action*). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

Do NOT hit "Reply" to this e-mail notification, or otherwise e-mail your response because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at http://www.uspto.gov/trademarks/teas/response_forms.jsp.

(3) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

Failure to file the required response by the applicable response deadline will result in the ABANDONMENT of your application. For more information regarding abandonment, see

<http://www.uspto.gov/trademarks/basics/abandon.jsp>.

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.